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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,941	06/17/2005	Harald Wolf	3926.177	1142
30448 7590 01/31/2008 AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 01/31/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/539,941

Applicant(s)

WOLF, HARALD

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation "the required panel separation time of a complete group" in line 7. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*and 7, 11-13*  
Claims 1-6<sup>✓</sup> are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholz (US 5,503,518) in view of Kirsten (US 3,325,977).

With respect to claims 1-5, Scholz discloses a method for transporting bodywork panels of a vehicle comprising:

- providing an endless transport device 1, equipped with a plurality of carrier units 38 that are spaced at intervals in an obliquely upward transport direction, each respective carrier unit 38 having at least two carrier elements 33 that project substantially perpendicular to a transport direction (indicated

generally as 38) and are spaced at a distance in a direction transverse to a transport direction,

- stacking an associated group of panels on a carrier unit ,
- transporting a group of panels as far as a panel removal station 4, and in each case removing an individual bodywork panel by a panel separation device 6;
- building up a group of panels in a carrier unit 33 by means of successive deposition of individual plates. C5/L40-45..

Scholz defines "inclined" as horizontal, i.e. relative to vertical.

Applicant is respectfully reminded that to be entitled to patentable weight in method claims, the structural limitations recited therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. See *Ex parte Pfeiffer*, 135 USPQ 31 (1961). For example, claim 1, lines 15-19 recite a carrier that can be varied, an inclined transport device and a transport direction . These are not the equivalent of proper method steps, e.g. and **-ing** ending word. (Emphasis added.) Thus, lines 15-19 amount to the mere claiming of a use of a particular structure and afforded little patentable weight. In this case, Scholz's device is configured as a function of a panel geometric shape because Scholz's apparatus discloses carrier units that have a sufficient height for supporting articles without dropping them.

Scholz does not disclose adjusting intervals or distances or bodywork panels. Scholz discloses transferring "sheets, panels, plates and like flat or substantially flat

commodities" (C1/L6). A skilled artisan could use Scholz's apparatus to handle bodywork panels as disclosed by Applicant given the height of carrier units 33 and the disclosure in Scholz regarding the ability to stake any plate-like material. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to stack bodywork panels which are plate-like and would fit Scholz's carrier elements.

Kirsten discloses a method comprising adjusting intervals between carrier units in a transport direction (c3/L36) and adjusting a distance between the carrier elements in a direction transverse to a transport direction (C3/L1) such that carrier units can accommodate articles of different widths and configurations. C1/L15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to include adjusting intervals or distances, as per the teachings of Kirsten, to accommodate articles of different sizes and configurations.

With respect to claim 6, Scholz discloses transporting a respective group of panels by means of a transport device 33 during a predefinable cycle time, the cycle time depending on the required panel separation time of a complete group of panels respectively located at the panel removal station. Scholz does not explicitly disclose a predefinable cycle time and panel separation time. Scholz teaches monitoring the position of the stack at the transfer station 4 relative to the removing means. C4/L60-C5/L2. And, Scholz defines a predefinable cycle time as that time it takes to completely empty one group of panels 8a-h whereupon removal, the next transporting group is indexed into a removal location 4. C8/L51-C9/L5. Therefore, it would have been obvious

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to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to include depending a cycle time on a required panel separation time of a complete group to ensure that unloading is continuous.

With respect to claims 7 & ~~10~~<sup>5</sup>-13, Scholz discloses a transport device comprising-

- a plurality of carrier units 38 that are spaced at intervals in an obliquely upward transport direction, each respective carrier unit having two carrier elements 33 projecting substantially perpendicular to a transport direction and spaced at a distance in a direction transverse to a transport direction, such that:
- an associated group of panels can be stacked on at least one carrier unit,
- a group of plates can be transported as far as a plate removal station, and in each case an individual plate be removed by a panel separation device at a panel removal station.

Scholz does not disclose adjusting intervals or distances. Kirsten discloses a transport device comprising adjusting intervals between carrier units in a transport direction (c3/L36) and adjusting a distance between the carrier elements in a direction transverse to a transport direction (C3/L1) such that carrier units can accommodate articles of different widths and configurations. C1/L15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to include adjusting intervals or distances, as per the teachings of Kirsten, to accommodate articles of different sizes and configurations.

***Response to Arguments***

Applicant's amendments filed Nov. 26, 2007 have been fully considered but they do not successfully traverse the cited prior art. However, for the furtherance of prosecution the examiner has attempted to clarify where in the cited prior art the limitations are disclosed. Applicant did not include arguments.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/11/07

  
SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER